

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

J.F. AHEARN CO.,

Plaintiff,

v.

Case No. 04-C-815

CHERNE CONTRACTING CORP.,

Defendant.

ORDER

Defendant Cherne Contracting Corp. has filed an expedited motion to amend the scheduling order so as to provide three more months before dispositive motions are due. Its basis for seeking an extension of time is that the parties have engaged in ongoing settlement talks as well as mediation. In light of those efforts, Cherne held off on undertaking some discovery that it now believes would be fruitful. The plaintiff has filed an affidavit opposing the motion. It claims there is no basis for the extension and that discovery was readily available throughout the course of this litigation.

The motion for an extension will be denied. The most sensible time for requesting an extension of time is at some point prior to the deadline sought to be moved, not after the fact. That is especially true when the parties are engaged in active settlement efforts—bargaining in the shadow of imminent deadlines is often an incentive to settle. To then change a deadline at the unilateral

request of one party after settlement has failed would undermine the fair bargaining process and the settled expectations of both parties.

Accordingly, the 7.4 motion to amend the scheduling order is **DENIED**. The clerk will contact counsel to arrange a telephonic scheduling conference to establish final pretrial and trial dates.

Dated this 10th day of August, 2005.

s/ William C. Griesbach
William C. Griesbach
United States District Judge